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February 15, 2005

**VIA HAND DELIVERY**

Mr. John Robertus  
Executive Officer  
Attn: Chris Means  
San Diego Regional Water Quality Control Board  
9174 Sky Park Court, Suite 100  
San Diego, California 92123-4340

SAN DIEGO REGIONAL  
WATER QUALITY  
CONTROL BOARD  
2005 FEB 15 P 4:32

Re: **Technical Reports in Response to Cleanup and Abatement Order  
Nos. R9-2005-0420 (Morro Hills/Fieldstone Communities, Inc. –  
WPN: 10-3021382.02:meanc) and R9-2005-0044 (Morro  
Hills/Florida Southchase, L.P. – WPN: 10-3020478.02:meanc)**

Dear Mr. Robertus:

This law firm represents two companies, Fieldstone Communities, Inc. and Florida Southchase, L.P.<sup>1</sup>, collectively "Owners," in responding to the above referenced Cleanup and Abatement Orders ("CAO"). Owners received the CAOs from the San Diego Regional Water Quality Control Board ("Regional Board") following an inspection of conditions at the Morro Hills project site on January 12, 2005. The CAOs allege that Owners' Best Management Practices ("BMPs") used to prevent silt from entering the City of Oceanside's ("City") storm water conveyance system ("MS4") failed following a 144-hour severe storm event besieging Southern California from January 6<sup>th</sup> to January 11<sup>th</sup>. In Oceanside, the National Weather Service reported 4.26 inches of rain during this storm event. In voluntary compliance with the CAOs, Owners submit these Technical Reports.

Following the severe storm event and the Regional Board's field inspection, an aggressive action plan was launched with guidance from the City of Oceanside inspector in setting priorities for site repairs. The priority concern was avoiding future breaches of the silt traps ("traps") found on the site. This concern was addressed using a seven-pronged strategy. First, sediment source controls were placed on slopes to prevent traps and basins from filling with sediment. Second, sediment source controls were placed on housing pads, super pads and other level areas to prevent traps and basins from filling with sediment. Third, most traps were substantially converted to desilting basins to allow water to drain from the site only after filtered treatment. Fourth, the basins were dewatered and dredged to restore and expand their capacity. Fifth, the traps were dewatered and dredged to restore their capacity. Sixth, a new basin was created to expand the site's capacity to store and treat

<sup>1</sup> Florida Southchase, L.P. is a passive landowner who granted Richland Ventures, Inc. an option to purchase the land and formed an agreement with Fieldstone to grade Area 4.

silt-laden water. Finally, an advanced filtration system was set up at the site to provide treatment in the event of an emergency.

Implementing this seven-pronged strategy involved detailed oversight by Owners' top management, hiring two independent auditors (Rick Engineering Company and Pam Lucado) to continuously evaluate and provide solutions to obstacles, hiring at least seven different BMP subcontractors, and a small army of workers who at times numbered just under a hundred working to improve the site. A conservative estimate for the cost of labor and supplies used to restore the site is \$363,095, with over 10,177 labor hours spent implementing the strategy.

In addition to the Technical Report, the CAO calls for Owners to submit a Status Report of the site within seven days following a "significant rainfall." In our experience, industry practice has defined a "Rainfall Event" from the start of precipitation to the end of precipitation followed by three dry days. Owners define a "Significant Rainfall Event" as when more than an inch of precipitation<sup>2</sup> occurs during a Rainfall Event. Based on this definition, assuming more than an inch of rain fell from February 10<sup>th</sup> to February 12<sup>th</sup> and we have three dry days from February 13<sup>th</sup> through February 15<sup>th</sup>, then a Significant Rainfall Event would have occurred triggering the requirement that a Status Report of the site be submitted on February 22<sup>nd</sup>.

The CAO requires the Status Report to estimate the amount of discharges from the site and to continue submitting Status Reports following significant rainfalls until a Status Report demonstrates the BMPs were "effective in reducing sediment discharges from the subject site during rain events to the Best Available Technology Standard" ("BAT"). Owners define BAT as a certification by a third party auditor that substantially all BMPs employed at the Site substantially performed as intended to effectively reduce discharges to the Oceanside MS4. Moreover, upon the achieving the BAT standard, the Regional Board will rescind the CAO. Owners expect the recent rain event from February 10<sup>th</sup> to February 12<sup>th</sup> will allow them to evaluate the effectiveness of the site BMPs, and the subsequent Status Report will indicate either their substantial performance or the need to improve BMPs where substantial performance was not documented.

Finally, due to the rainfall commencing on February 10<sup>th</sup>, no further improvements could be made to the site. This Technical Report documents conditions at the site as of February 10<sup>th</sup>. Conditions at the site and BMP performance since then will be covered in the upcoming Status Report.

If the Regional Board disagrees with these interpretations of a significant rainfall and effective reduction of sediment discharges to the Best Available Technology Standard, then pursuant to the CAO, we respectfully request a public hearing before the Regional Board on March 9, 2005.

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<sup>2</sup> Rainfall totals will be measured by the National Weather Service meter at Oceanside Airport.



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If you have any questions or concerns about the Technical Report or the trigger for Significant Rainfall Status Reports, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Wayne Rosenbaum', with a large, stylized 'S' and 'R'.

S. Wayne Rosenbaum

SWR/jwf